

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

RECEIVED

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Case No: 02-92935

U.S. BANKRUPTCY COURT
ST. PAUL, MN

IN RE:

Sally Ann Mathews,

Debtor.

**RESPONSE TO MOTION
FOR OBJECTION OF CLAIM**

TO: SALLY A. MATHEWS, DEBTOR, BY AND THROUGH HER ATTORNEY JAMES P. RYAN, JR. 407 14TH STREET NW, PO BOX 6667, ROCHESTER, MN 55903 AND THE UNITED STATES TRUSTEE BY AND THROUGH THEIR ATTORNEY CHARLES W. REIS, 200 UNION SQUARE BUSINESS CENTER 201 NORTH BROAD STREET PO BOX 7, MANKATO, MN 56002

1. In response to the Motion for Objection to Claims, specifically number 11 of the Motion concerning the duly filed claim by Fortress Bank NA, Claim #6. Fortress Bank, NA requests the Court to allow its claim as this claim is a personal obligation of the Debtor.

2. The promissory note (attached hereto) was executed by the Debtor individually and on behalf of a sole proprietorship, this individual obligation by the Debtor was properly filed as Claim #6 in this matter and should be allowed.

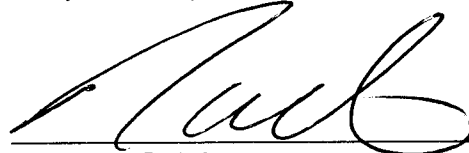
WHEREFORE, THE UNDERSIGNED REQUESTS an order of the Court determining:

1. That the claim of Fortress Bank, NA, Claim #6 in this proceeding is an individual / personal obligation of the Debtor.

2. That Fortress Bank, NA duly filed its' claim in a timely manner as Claim #6 in this proceeding and the claim is allowed in the amount of \$4,492.92.

3. For such other relief as the Court deems just and proper.

Dated this 29th day of September, 2004.



Terry A. Chiglo
Attorney for Fortress Bank, NA
210 E. Cedar Box 507
Houston, MN 55943
1-507-896-2176
Attorney License No:243875

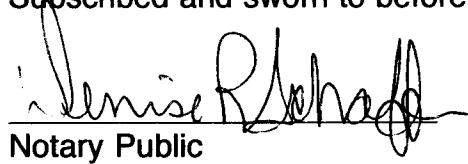


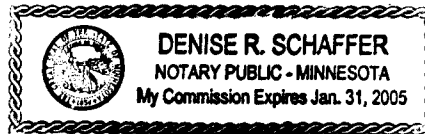
VERIFICATION

Terry A. Chiglo, having been duly sworn upon oath, states that he is the attorney for Fortress Bank, NA a claimant herein; that he has read the foregoing REsponse to Motion for Objection to Claim, and knows the contents thereof; that the same is true and correct, except as stated to those matters therein stated on information and belief, and that those matters, he believes them to be true.


Terry A. Chiglo

Subscribed and sworn to before me this 29th day of September, 2004.


Notary Public



Sally Mathews, Individually & Sole Prop.
 d/b/a Mathews Computer Service

(MAKER)

JULY 16, 2002

(DATE)

\$ 4,493.13

1. **Promise to Pay and Payment Schedule.** The undersigned ("Maker," whether one or more) promises to pay to the order of FORTRESS BANK
NATIONAL ASSOCIATION ("Lender") at 108 E. Cedar St., Box
518, Houston, the principal sum of \$ 4,493.13

[Check (a), (b), (c) or (d); only one shall apply.]

- (a) ☐ **Single Payment.** In one payment on n/a, plus interest payable as set forth below.
- (b) ☒ **Installments of Principal and Interest.** In 22 equal payments of \$ 217.00 due on AUGUST 16, 2002, and on
☒ the same day(s) of each succeeding month thereafter ☐ every 7th day thereafter ☐ every 14th day thereafter, PLUS a final
 payment of the unpaid balance and accrued interest due on JUNE 16, 2004, all subject to modification as set forth
 in 2(b) below, if applicable. All payments include principal and interest.
- (c) ☐ **Installments of Principal.** In n/a equal payments of principal of \$ n/a due on n/a, and on
☐ the same day(s) of each n/a month thereafter ☐ every 7th day thereafter ☐ every 14th day thereafter, PLUS a final
 payment of the unpaid principal due on n/a, PLUS interest payable as set forth below.
- (d) ☐ **Other.** n/a

2. **Interest Calculation.** This Note bears interest on the unpaid principal balance before maturity:

[Check (a) or (b); only one shall apply.]

- (a) ☒ **Fixed Rate.** At the rate of 9.500 % per year.
- (b) ☐ **Variable Rate.** At the annual rate which is equal to the following Index Rate, ☐ plus ☐ minus n/a percentage points ("Note Rate"), and
 the Note Rate shall be adjusted as provided below. The Index Rate is:
☐ The prime rate ☐ The reference rate ☐ The base rate adopted by ☐ Lender ☐ n/a
n/a from time to time as its base or reference rate for interest rate determinations. The Index Rate may
 or may not be the lowest rate charged by Lender.
☐ n/a

The initial Note Rate is n/a % per year and shall not at any time be less than n/a % per year. An adjustment in the Note Rate will
 result in an increase or decrease in (1) ☐ the amount of each payment of interest, (2) ☐ the amount of the final payment, (3) ☐ the number of
 scheduled periodic payments sufficient to repay this Note in substantially equal payments, (4) ☐ the amount of each remaining payment of principal
 and interest so that those remaining payments will be substantially equal and sufficient to repay this Note by its scheduled maturity date, (5) ☐ the
 amount of each remaining payment of principal and interest (other than the final payment) so that those remaining payments will be substantially
 equal and sufficient to repay this Note by its scheduled maturity date based on the original amortization schedule used by Lender, plus the final
 payment of principal and interest, or (6) ☐ n/a

In addition, Lender is authorized to change the amount of periodic payments if and to the extent necessary to pay in full all accrued interest owing on
 this Note. The Maker agrees to pay any resulting payments or amounts. The Note Rate shall be adjusted only on the following change dates: ☐ the
 first day of each month ☐ each scheduled payment date ☐ as and when the Index Rate changes ☐ n/a
n/a

Interest is computed:

- (c) ☒ For the actual number of days principal is unpaid on the basis of ☒ a 360 day year ☐ a 365 day year.
- (d) ☐ For the number of days principal is unpaid on the basis of a 360 day year, counting each day as 1/30th of a month and disregarding differences in
 lengths of months and years.

Unless prohibited by law and if the Lender so elects, unpaid principal and interest bear interest after maturity until paid (whether by acceleration or lapse of
 time) at the rate ☒ which would otherwise be applicable plus 0.500 percentage points ☐ of n/a % per year, computed on the same basis
 as the interest rate before maturity. If prohibited by law or if Lender does not elect to charge interest under this paragraph, interest shall continue to accrue
 on all unpaid principal and interest until paid in full at the rate set forth in paragraph 2(a) or (b).

3. **Interest Payment.** Interest is payable on n/a, and on ☐ the same day of each n/a month
 thereafter, ☐ every 7th day thereafter, ☐ every 14th day thereafter, and at maturity, or, if box 1(b) is checked, at the times so indicated.

4. **Other Charges.** If any payment (other than the final payment) is not made on or before the 10th day after its due date, Lender may collect a
 delinquency charge of 5.00 % of the unpaid amount. Maker agrees to pay a charge of \$ n/a for each check presented for payment
 under this Note which is returned unsatisfied.

5. **Prepayment.** Full or partial prepayment of this Note ☐ is permitted at any time without penalty ☒ A minimum finance charge of \$10.00 minus the
 amount of interest that has been earned up to the date of prepayment.

THIS NOTE INCLUDES ADDITIONAL PROVISIONS ON REVERSE SIDE

(SEAL)

(Type of Organization)

Minnesota 4701

Sally Mathews, Individually & Sole Prop.
 d/b/a Mathews Computer Service

(SEAL)

(SEAL)

Address: 113 E. Cedar St., P.O. Box 197

(SEAL)

Houston, MN 55943

(SEAL)

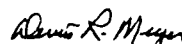
FOR LENDER CLERICAL USE ONLY

*If checked, insert applicable prepayment restrictions and penalties.

If credit life or accident and sickness insurance is requested, a WBA 450 may be required.

Phone# 896-2492 SS# 396-66-2472

Port. # 2051143 AUTO PYMT FROM CHKG # 265-834

Line # 2051143 Sec. by: U.S. Bank


Dennis R. Meyer #200 (N&R)
 LOAN OFFICER

ADDITIONAL PROVISIONS

6. Default and Enforcement. Upon the occurrence of any one or more of the following events of default: (a) Maker fails to pay any amount when due under this Note or under any other instrument evidencing any indebtedness of Maker to Lender, (b) any representation or warranty made under this Note or information provided by Maker to Lender in connection with this Note is or was false or fraudulent in any material respect, (c) a material adverse change occurs in Maker's financial condition, (d) Maker fails to timely observe or perform any of the covenants or duties contained in this Note, (e) any guarantee of Maker's obligations under this Note is revoked or becomes unenforceable for any reason, (f) Maker or a surety or guarantor of this Note dies or ceases to exist, (g) an event of default occurs under any agreement securing this Note, or (h) Lender deems itself insecure, then the unpaid balance shall, at the option of Lender, without notice, mature and become immediately payable. The unpaid balance shall automatically mature and become immediately payable in the event any Maker, surety, indorser or guarantor becomes the subject of bankruptcy or other insolvency proceedings. Lender's receipt of any payment on this Note after the occurrence of an event of default shall not constitute a waiver of the default or the Lender's rights and remedies upon such default. To the extent not prohibited by law, Maker consents that venue for any legal proceeding relating to collection of this Note shall be, at Lender's option, the county in which Lender has its principal office in this state, the county in which any Maker resides or the county in which this Note was executed.

7. Security. This Note is secured by all existing and future security agreements and mortgages between Lender and Maker, between Lender and any indorser or guarantor of this Note, and between Lender and any other person providing collateral security for Maker's obligations, and payment may be accelerated according to any of them. Unless a lien would be prohibited by law or would render a nontaxable account taxable, Maker grants to Lender a security interest and lien in any deposit account Maker may at any time have with Lender. Lender may, at any time after an occurrence of an event of default, without notice or demand, set-off against any deposit balances or other money now or hereafter owed any Maker by Lender any amount unpaid under this Note.

8. Rights of Lender. Without affecting the liability of any Maker, indorser, surety, or guarantor, Lender may, without notice, accept partial payments, release or impair any collateral security for the payment of this Note or agree not to sue any party liable on it. Lender may apply prepayments, if permitted, to such future installments as it elects. Lender may without notice to Maker apply payments made by or for Maker to any obligations of Maker to Lender. Without affecting the liability of any indorser, surety or guarantor, Lender may from time to time, without notice, renew or extend the time for payment.

9. Obligations and Agreements of Maker. The obligations under this Note of all Makers are joint and several. All Makers, indorsers, sureties, and guarantors agree to pay all costs of collection before and after judgment, including reasonable attorneys' fees (including those incurred in successful defense or settlement of any counterclaim brought by Maker or incident to any action or proceeding involving Maker brought pursuant to the United States Bankruptcy Code) and waive presentment, protest, demand and notice of dishonor. Maker agrees to indemnify and hold harmless Lender, its directors, officers, employees and agents, from and against any and all claims, damages, judgments, penalties, and expenses, including reasonable attorneys' fees, arising directly or indirectly from credit extended under this Note or the activities of Maker. This indemnity shall survive payment of this Note. Each Maker acknowledges that Lender has not made any representations or warranties with respect to, and that Lender does not assume any responsibility to Maker for, the collectability or enforceability of this Note or the financial condition of any Maker. Each Maker has independently determined the collectability and enforceability of this Note. Maker authorizes Lender to disclose financial and other information about Maker to others.

10. Interpretation; Governing Law. This Note is intended by Maker and Lender as a final expression of this Note and as a complete and exclusive statement of its terms, there being no conditions to the enforceability of this Note. This Note may not be supplemented or modified except in writing. This Note benefits Lender, its successors and assigns, and binds Maker and Maker's heirs, personal representatives, successors and assigns. The validity, construction and enforcement of this Note are governed by the internal laws of Minnesota. Invalidity or unenforceability of any provision of this Note shall not affect the validity or enforceability of any other provisions of this Note. This extension of credit is made under Section 47.59 of the Minnesota Statutes.

W.B.A. 4817/M (12/81) FJ/221
W.B.A. 4817/M (12/81) FJ/221
W.B.A. 4817/M (12/81) FJ/221

Fortress Bank
Class 10 Purp. Code 530
BUSINESS NOTE

Loan # 20420
RIPCO
Based on 1988
are incorporated

Sally Mathews, Individually & Sole Prop.
d/b/a Mathews Computer Service
JULY 16, 2002
\$ 4,493.13

1. Promise to Pay and Payment Schedule: This undersigned (Maker) (whether one or more) promises to pay to the order of FORTRESS BANK
(Lender) at 133 E. Cedar St., Box
NATIONAL ASSOCIATION the principal sum of \$ 4,493.13
518. None
(Check (a), (b), (c) or (d); only one shall apply.)
(a) ☐ Single Payment: In one payment on 11/1, plus interest payable as set forth below.
(b) ☒ Installments of Principal and Interest: In 22 equal payments of \$ 217.00 due on AUGUST 16, 2002 and on
the same day(s) of each successing month thereafter ☐ every 7th day thereafter ☐ every 14th day thereafter ☐ every 14th day thereafter, PLUS a final
payment of the unpaid balance and accrued interest due on JUNE 16, 2004, all subject to modification as set forth
in 2(b) below, if applicable. All payments include principal and interest.
(c) ☐ Installments of Principal: In 11/1 equal payments of principal of \$ 11/1 due on 11/1 and on
the same day(s) of each 11/1 month thereafter ☐ every 7th day thereafter ☐ every 14th day thereafter, PLUS a final
payment of the unpaid principal due on 11/1, PLUS interest payable as set forth below.
(d) ☐ Other: 11/1

2. Interest Calculation: This Note bears interest on the unpaid principal balance before maturity.
(Check (a) or (b); only one shall apply.)
(a) ☒ Fixed Rate: At the rate of 9.500 % per year.
(b) ☐ Variable Rate: At the annual rate which is equal to the following Index Rate ☐ plus ☐ minus 11/1 percent age points ("Note Rate"), and
the Note Rate shall be adjusted as provided below. The Index Rate is:
☐ The prime rate ☐ The reference rate ☐ The base rate adopted by ☐ Lender ☐ 11/1
11/1 from time to time as its base or reference rate for interest rate calculations. The Index Rate may
or may not be the lowest rate charged by Lender.
11/1
The Index Note Rate is 11/1 % per year and shall not at any time be less than 11/1 % per year. An adjustment in the Note Rate will
result in an increase or decrease in (1) ☐ the amount of each payment of interest, (2) ☐ the amount of the final payment, (3) ☐ the number of
scheduled periodic payments sufficient to repay this Note in substantially equal payments, (4) ☐ the amount of each remaining payment of principal
and interest so that those remaining payments will be substantially equal and sufficient to repay this Note by its scheduled maturity date, (5) ☐ the
amount of each remaining payment of principal and interest (other than the final payment) so that those remaining payments will be substantially
equal and sufficient to repay this Note by its scheduled maturity date based on the original amortization schedule used by Lender, plus the final
payment of principal and interest, or (6) ☐ 11/1

In addition, Lender is authorized to change the amount of periodic payments if and to the extent necessary to pay in full all accrued interest on or
before the Note. The Maker agrees to pay any resulting payments or amounts. The Note Rate shall be adjusted only on the following change dates: ☐ the
first day of each month ☐ each scheduled payment date ☐ whenever the Index Rate changes ☐ 11/1

Interest is computed:
(a) ☒ For the actual number of days principal is unpaid on the basis of ☒ a 360 day year ☐ a 365 day year
(b) ☐ For the number of days principal is unpaid on the basis of a 360 day year, counting each day as 1/360th of a month and others, ending date, and
lengths of months and years.
Unless prohibited by law and if the Lender so elects, unpaid principal and interest bear interest after maturity until paid (whether by acceleration or sale of
time) at the rate ☒ which would otherwise be applicable plus 0.500 percentage points ☐ of 11/1 % per year, computed on the actual basis
as the interest rate before maturity. If prohibited by law or if Lender does not elect to charge interest under this paragraph, interest shall continue to accrue
on all unpaid principal and interest until paid in full at the rate set forth in paragraph 2(a) or (b).
3. Interest Payment: Interest is payable on 11/1 and on ☐ the same day of each 11/1 month
thereafter ☐ every 7th day thereafter, ☐ every 14th day thereafter, and at maturity, or, if box 1(c) is checked, at the times so indicated.
4. Other Charges: If any payment (other than the final payment) is not made on or before the 11th day after its due date, Lender may collect a
delinquency charge of 11.00 % of the unpaid amount. Maker agrees to pay a charge of \$ 11/1 for each check presented for payment
under this Note which is returned unsatisfied.
5. Prepayment: Full or partial prepayment of this Note ☐ is permitted at any time without penalty ☒ a minimum finance charge of \$10.00 minus the
amount of interest that has been earned up to the date of prepayment.

THIS NOTE INCLUDES ADDITIONAL PROVISIONS ON REVERSE SIDE.

(SEAL)
(Type of Organization)
(SEAL)
Sally Mathews, Individually & Sole Prop.
d/b/a Mathews Computer Service
(SEAL)
Address: 133 E. Cedar St., Box 171
(SEAL)
Houston, MN 55943
(SEAL)

70. Interpretation; Governing Law. This Note is intended by Maker and Lender as a final expression of this Note and as a complete and exclusive statement of its terms, there being no conditions to the enforceability of this Note. This Note may not be supplemented or modified except in writing. This Note benefits Lender, its successors and assigns, and binds Maker and Maker's heirs, personal representatives, successors and assigns. The validity, construction and enforcement of this Note are governed by the internal laws of Minnesota. Invalidity or unenforceability of any provision of this Note shall not affect the validity or enforceability of any other provisions of this Note. This extension of credit is made under Section 47.59 of the Minnesota Statutes.

Automatic Payment Authorization

FORTRESS BANK NATIONAL ASSOCIATION

Lender Name

Loan Account

The undersigned authorize Lender to automatically deduct amounts due under the following Note/Agreement, ☐ plus funds sufficient to meet Lender's escrow requirements.

Original Principal Amount or Credit Limit: \$ 4,493.13

Note/Agreement dated: JULY 16, 2002

Borrower: Sally Mathews, Individually & Sole Prop.
d/b/a Mathews Computer Service

Loan Account Number: 20420

Payment Information

First Automatic Payment Date: AUGUST 16, 2002

Initial Payment Amount: \$217.00

Frequency: Monthly

Deposit Account

Deductions shall be made from the following deposit account:

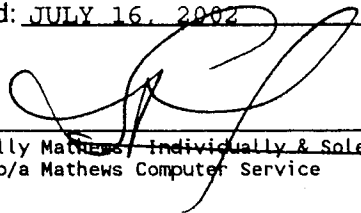
Account Number: 265-834

Type of Account: Checking

The undersigned account holder(s) will maintain sufficient funds in the referenced Deposit Account to pay the full amount of each payment on the date it is due.

Additional Provisions:

Dated: JULY 16, 2002



Sally Mathews, Individually & Sole Prop.
d/b/a Mathews Computer Service

COPY

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

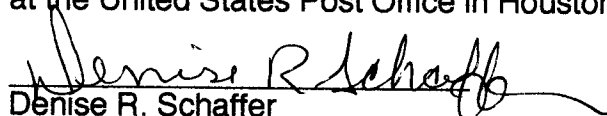
CASE NO: 02-92935

Sally Ann Mathews,
Debtor.

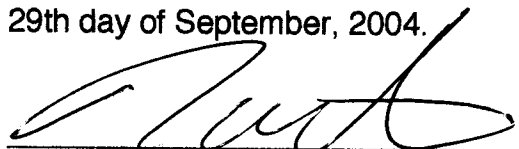
AFFIDAVIT OF SERVICE

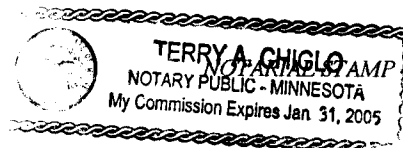
STATE OF MINNESOTA)
)
COUNTY OF HOUSTON) ss.

Denise Schaffer, being first duly sworn, deposes and says that on the 29th day of September, 2004, she served the **RESPONSE TO MOTION FOR OBJECTION OF CLAIM** on United States Bankruptcy Court, District of Minnesota, by mailing the items in a postage prepaid envelope addressed to United States Bankruptcy Court, District of Minnesota, U.S. Courthouse Room 200, 316 North Robert Street, St. Paul, MN 55101 at the United States Post Office in Houston, Minnesota.


Denise R. Schaffer

Subscribed and sworn to before me this
29th day of September, 2004.


Notary Public Houston County, Minnesota



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

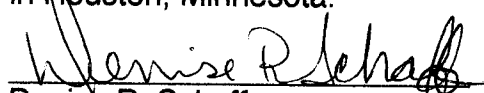
CASE NO: 02-92935

Sally Ann Mathews,
Debtor.

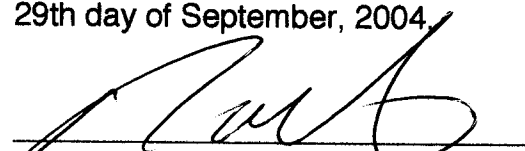
AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HOUSTON)

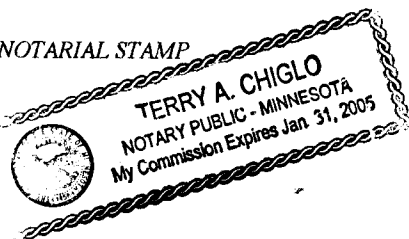
Denise Schaffer, being first duly sworn, deposes and says that on the 29th day of September, 2004, she served the **RESPONSE TO MOTION FOR OBJECTION OF CLAIM** on Attorney James P. Ryan, Jr., Attorney for Sally A. Mathews, by mailing the items in a postage prepaid envelope addressed to Attorney James P. Ryan, Jr., 407 15th Street NW, P.O. Box 6667, Rochester, MN 55903 at the United States Post Office in Houston, Minnesota.


Denise R. Schaffer

Subscribed and sworn to before me this
29th day of September, 2004.


Notary Public Houston County, Minnesota

NOTARIAL STAMP



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

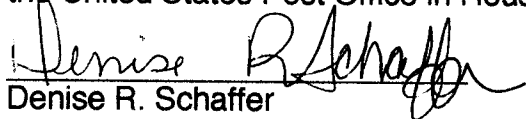
CASE NO: 02-92935

Sally Ann Mathews,
Debtor.


AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HOUSTON)

Denise Schaffer, being first duly sworn, deposes and says that on the 29th day of September, 2004, she served the **RESPONSE TO MOTION FOR OBJECTION OF CLAIM** on Attorney Charles W. Reis, Attorney for United States Trustee, by mailing the items in a postage prepaid envelope addressed to Attorney Charles W. Reis, 200 Union Square Business Center, 201 North Broad Street, P.O. Box 7, Mankato, MN 56002 at the United States Post Office in Houston, Minnesota.


Denise R. Schaffer

Subscribed and sworn to before me this
29th day of September, 2004.


Notary Public Houston County, Minnesota

